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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/846,374 | 04/30/2001 | Nisha D. Talagala | P5599 US | 3930 |

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EXAMINER

TRIMMINGS, JOHN P

ART UNIT

PAPER NUMBER

2133

10

DATE MAILED: 04/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 09/846,374 | Applicant(s) TALAGALA ET AL. | |
| | Examiner John P Trimmings | Art Unit 2133 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) 5,20,35 and 50 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-19,21-34,36-49,51-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is in response to applicant's amendment, filed on 3/4/2004.

The examiner acknowledges the applicant's amendments to the specification.

The examiner acknowledges the amended drawings 3d, 4b, 4c, 4d, and 4c, and has accepted these drawings.

The examiner acknowledges cancellation of Claims 5, 20, 35, and 50.

The examiner acknowledges the amendments to Claims 1-2, 6-9, 11-12, 16-17, 21-24, 26-27, 31-32, 36-39, 41-42, 46-47, 51-54, and 56-57.

Claims 1-4, 6-19, 21-34, 36-49, and 51-60 are pending.

Response to Amendment

Response Re: 35 USC § 103

1. In response to Claims 1-6, 8, 11-21, 23, 26-36, 38, 41-51, 53, 56-60, the applicant argues that Hong, as recited in the above claims, fails to teach or suggest "in response to an indication of a data...". In view of the amendments to the aforementioned claims the examiner agrees that the referenced art does not teach or suggest the response to an indication. Therefore, as a result of the amendment of

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3/4/2004, the examiner withdraws the rejection to the above-mentioned claims, with the exception of cancelled Claims 5, 20, 35 and 50.

2. In subsequent paragraphs of the applicant's amendment, the argument is set forth for in re: Claims 7, 9, 22, 24, 37, 39, 52, 54, 10, 25, 40, 55, wherein the claims derive allowability through dependence on the independent claims 1, 16, 31, and 46. Inasmuch as rejections to Claims 1, 16, 31, and 46 is withdrawn in (1) above, the examiner's rejection of dependent Claims 7, 9, 22, 24, 37, 39, 52, 54 and 55 is also withdrawn.

3. Applicant's arguments with respect to claims 10, 25 and 40 have been considered but are moot in view of the new grounds of rejection below.

Specification

4. The disclosure is objected to because of the following informalities: the disclosure is not enabling in accordance with 37 CFR 1.71 because it fails to disclose the claim limitations with respect to the independent Claims 1, 16, 31 and 46, where there is a response to an indication. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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1. Claims 1-4, 6-9, 11-19, 21-24, 26-34, 36-39, 41-49, and 51-60 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. Based on the amendments to the independent claims, the examiner has reconsidered the new scope of all the subject claims based on "response to an indication", and has determined that this change of scope to the invention does not stem from the specification. There is a very clear and precise meaning attributed to both "indication" and "detection" by the applicant's specification. For instance, a "silent" error (see page 2, paragraph [0003]) is a type of error that may occur without an "indication" from the system (see page 9 paragraph [0030]). But, the invention's silent error "detection" capability is the crux of the invention (see Summary of application). Every embodiment of the invention responds to a "detection" of errors, and not to "indications" of errors (see specification Summary and Abstract). Therefore, the instant amendment to the claims has rendered the claims to be in violation of 35 USC 112 paragraph 1, because the specification no longer supports the claims. The Claims 1-4, 6-9, 11-19, 21-24, 26-34, 36-39, 41-49, and 51-60 are therefore rejected.

Therefore, in total, the pending Claims 1-4, 6-19, 21-34, 36-49, and 51-60 have been rejected based on the examiner's above arguments.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John P Trimmings whose telephone number is 703-305-0714. The examiner can normally be reached on Monday through Thursday, 7:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert DeCady can be reached on 703-305-9595. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John P Trimmings
Examiner
Art Unit 2133

jpt



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